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UNITED NATIONS CONFERENCE ON THE LIABILITY OF OPERATORS OF TRANSPORT TERMINALS IN INTERNATIONAL TRADE

FIRST COMMITTEE

SUMMARY RECORD OF THE 17th MEETING

Held at the Austria Center Vienna,
on Monday, 15 April 1991, at 9.30 a.m.

Chairman: Mr. BERAUDO (France)

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF ARTICLES 1 TO 16 AND 20 OF THE DRAFT CONVENTION ON THE LIABILITY OF OPERATORS OF TRANSPORT TERMINALS IN INTERNATIONAL TRADE (agenda item 3) (continued) (A/CONF.152/5, 6, 7 and Add.1 and Add.1/Corr.1 and Add.2)

Article 14

1. Article 14 as reproduced in document A/CONF.152/L.5 was approved without comment.

CONSIDERATION OF THE REPORT OF THE DRAFTING COMMITTEE TO THE COMMITTEE (agenda item 4) (A/CONF.152/C.1/L.62)

2. Mr. RAO (India), speaking as the Chairman of the Drafting Committee, introduced the Committee's report in document A/CONF.152/C.1/L.62. He said the Drafting Committee had made a few changes of a mainly editorial nature to the texts referred to it by the First Committee. He suggested that the Secretary of the Drafting Committee should give the Committee details of the changes.

3. Mr. BERGSTEN (Executive Secretary), speaking as the Secretary of the Drafting Committee, said the report covered articles 1 to 16, but not article 20, which had been dealt with in the Drafting Committee's report to the Second Committee. Certain minor changes had been made to the Russian, Spanish and Arabic versions of the articles in order to conform with usage, and some changes had been made in the tenses of verbs in the English version for the same reason. All the substantive amendments approved by the First Committee had, of course, been incorporated in the text: he would draw attention only to the few significant changes that the Drafting Committee had made in the text in the interests of greater clarity.

4. In the introductory wording of paragraph 1 of article 4, the Committee had made some adjustments to the non-English versions of the text in order to make it clear that the phrase "within a reasonable period of time" applied both to the case where the customer had requested a document and to the case where the operator issued a document without being requested to do so. In the first sentence of paragraph 2 of that article, the words "he is rebuttably presumed to have received the goods in apparent good condition" had been amended to read "he is presumed to have received the goods in apparent good condition, unless he proves otherwise".

5. In the introductory wording of article 9 the phrase "at the time the goods are handed over to him" had been amended to read "at the time the goods are taken in charge by him", in order better to reflect the circumstances which that article contemplated.

6. In paragraph 1 of article 10, the phrase "during the period of his responsibility for them" had been amended to read "both during the period of his responsibility for them and thereafter", thus reflecting the German proposal for that provision (A/CONF.152/C.1/L.16), which the Committee had adopted in principle. In paragraph 3 of the same article, the words "the preceding sentence does not apply to containers" had been amended to read "this right to sell does not apply to containers", for the sake of greater clarity.

7. In paragraph 4 of article 12, the expression "declaration in writing" had been replaced by the term "notice".

8. The CHAIRMAN suggested that the Committee should consider the text prepared by the Drafting Committee article by article.

Article 1

9. Mr. MORAN (Spain) pointed out that in the Spanish version the last sentence of subparagraph (a) should be brought into line with the English version, which reproduced the wording of the original text (A/CONF.152/5).

10. Mr. ABASCAL (Mexico) supported that suggestion.

11. Mr. BERGSTEN (Executive Secretary) asked that any further requests for changes to the non-English language versions of the text designed to bring those versions into line with the English version should be submitted to the Secretariat in writing after the meeting.

12. Mr. TUVAYANOND (Thailand) proposed that the words "identified as being" should be deleted from subparagraph (c), since it might give rise to conflicting interpretations.

13. The CHAIRMAN pointed out that that proposal concerned a point of substance: the article had already been discussed at length, and the debate could not be re-opened. The Committee now had to confine itself to the drafting aspects of the text.

14. Article 1 was approved.

Articles 2 and 3

15. Articles 2 and 3 were approved.

Article 4

16. Mr. ABASCAL (Mexico), supported by Mr. MORAN (Spain), pointed out that changes should be made to the Spanish version of paragraphs 1 and 2 in order to bring them into line with the English version, which was now the same as in the original text.

17. Article 4 was approved.

Article 5

18. Mr. LEBEDEV (Union of Soviet Socialist Republics) asked whether the use of the phrase "as well as for delay in handing over the goods" in paragraph 1 was intentional. He pointed out that the corresponding phrase in article 5 of the Hamburg Rules was "as well as from delay in delivery", and that in paragraph 5 of article 11 of the Drafting Committee's text (A/CONF.152/C.1/L.62) the phrase used was "loss resulting from delay in handing over the goods". As now worded, article 5 (1) seemed to imply that the operator was liable for any delay, rather than simply for loss resulting from delay.

19. Mr. KATZ (Secretary of the First Committee) said there had been no intention on the part of either the UNCITRAL Working Group on International Contract Practices or the Commission itself to depart from the principles of the Hamburg Rules on that point. The use of the word "for" instead of "from" was an error, which would be rectified.

20. Article 5 was approved subject to that correction.

Articles 6 to 10

21. Articles 6 to 10 were approved.

Article 11

22. Mrs. MANSOUR (Guinea) pointed out that in the French version of paragraph 4 the words "le transporteur" should be added after the words "l'exploitant" in order to bring it into line with the English version.

23. Article 11 was approved subject to that correction.

Articles 12 to 16

24. Articles 12 to 16 were approved.

25. Mr. ZHAO Chengbi (China) gave notice of a number of corrections which his delegation wished to make in the Chinese version of document A/CONF.152/C.1/L.62.

26. Mr. BERGSTEN (Executive Secretary) said that delegations would have ample opportunity to correct the various language versions of articles 1 to 16 before the Secretariat produced the document containing the report of the First Committee to the plenary Conference. The Secretariat had noted the corrections mentioned at the present meeting.

27. Mr. SOLIMAN (Egypt) said that his delegation's numerous drafting comments on the Arabic version of document A/CONF.152/C.1/L.62 had been duly taken into account.

28. Mr. INGRAM (United Kingdom) inquired whether, in addition to articles 1 to 16, the Committee was not also required to approve article 20.

29. Mr. BERGSTEN (Executive Secretary) said that, technically speaking, that was the case. However, in view of a decision in the Drafting Committee to reverse the order of articles 20 and 21, it would now be more logical if all the final clauses were approved by the Second Committee.

The meeting rose at 11.05 a.m.